



भारत का राजपत्र

The Gazette of India

गताधारण

EXTRAORDINARY

भाग II-खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 36] नई दिल्ली, शुक्रवार, जुलाई 30, 1993/श्रावण 8, 1915

No. 36] NEW DELHI FRIDAY, JULY 30, 1993/SRAVANA 8, 1915

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जासके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 30th July, 1993:—

BILL No. 144 OF 1992

A Bill further to amend the Special Marriage Act, 1954.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Marriage (Amendment) Act, 1992.

Short title and commencement.

(2) It shall come into force at once.

2. In section 4 of the Special Marriage Act, 1954, after clause (e), the following clause shall be inserted, namely:—

Amendment of section 4.

“(f) where the marriage does not violate the personal law of the religious community or group to which either party or both parties to the marriage belong.”

STATEMENT OF OBJECTS AND REASONS

The Special Marriage Act, 1954, is applicable to all persons irrespective of the religion that they profess or even if they do not profess any religion. Many religions have prescribed religious laws to regulate marriage among its adherents or the marriage of its adherent to a person who is not.

A person is free to profess or not to profess a religion. But so long as he professes the religion he is bound by its laws governing marriage. It is possible that in a given situation, the proposed marriage may not be against the religious laws of the persons concerned, but in case there is a conflict of law, it can be resolved only if such a person opts out of his religion.

In some other aspects the Special Marriage Act, 1954 does take cognizance of the religious prohibition in the name of custom.

It is proposed that the Act should clearly lay down that it does not envisage a marriage in violation of the personal law of the party or the parties to the marriage, except if they, by an explicit declaration, opt out of the religion concerned.

Hence this Bill.

SYED SHAHABUDDIN

NEW DELHI;

July 13, 1992.

BILL NO. 149 OF 1992

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 1992.

Short title.

C.O. 19.

2. In the Constitution (Scheduled Castes) Order, 1950, in paragraph 3, the following proviso shall be added at the end, namely:—

Amend-
ment of
para-
graph

“Provided that a member of the Scheduled Caste, on conversion to any other religion from the Hindu, the Sikh or the Buddhist religion, as well as his wife and children, shall continue to receive the benefits which they were entitled to as members of the Scheduled Caste before such conversion.”

STATEMENT OF OBJECTS AND REASONS

Under the Constitution of India, every citizen is free to profess and practise a religion of his choice. Also, under the Constitution of India the safeguards and facilities available to the Scheduled Castes and Scheduled Tribes are not related to any particular religion. However in actual practice, Schedule Castes are generally presumed to follow the Hindu religion. This has resulted, under the Constitution (Scheduled Castes) Order, 1950, as amended in 1956 and 1990 that on change of religion from the Hindu, the Sikh or the Buddhist religion to any other religion, persons belonging to Scheduled Castes are denied the benefits available to them before conversion. This is neither fair nor equitable because the persons concerned or their family continue to be treated as social out-castes and are subjected to social discrimination. It is a well known sociological fact that the castes system is prevalent in a greater or lesser degree among all religious groups including Muslims and Christians. Change of faith does not immediately elevate the social status as the family continues to exist within the same social milieu.

In order to continue to receive the benefits as a member of the Scheduled Castes a person inclining to change his religion does not exercise his fundamental right. Thus, the Order by discontinuing benefits to a person who changes his religion protects a particular religion.

It is proposed that the benefits available under the Constitution to a member of the Scheduled Caste, who changes his religion, should continue to be available to him and his immediate family, so long as they are alive but not to the next generation.

Hence the Bill.

NEW DELHI;
August 3, 1992.

SYED SHAHABUDDIN.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that a member of the Scheduled Caste on conversion from the Hindu, the Sikh or the Buddhist religion to any other religion, as well as his wife and children, shall continue to receive the benefits which they were entitled to before such conversion. This would mean that all such Scheduled Castes who convert to any other religion shall get the benefits extended to other Scheduled Castes. Students will get facilities like free education hostel and scholarships, etc. in schools and colleges. The State Governments would incur expenditure from their respective consolidated funds in respect of such Scheduled Castes residing in the respective States. However, the Central Government would have to extend financial assistance to State Governments for implementing the provisions of this Act. The Bill therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an amount of rupees one crore per annum is likely to be involved from the consolidated Fund of India by way of recurring expenditure.

A non-recurring expenditure of about rupees ten lakhs is also likely to be incurred.

BILL No. 63 OF 1993

A Bill to provide for payment of pension and provision of other rehabilitation facilities to old persons.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title extent and commencement.

1. (1) This Act may be called the Old Age Pension and Rehabilitation Act, 1993.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the State Government and in the case of a Union territory, the Central Government; and

(b) “old person” means any person who has attained the age of sixty years or more and who has no independent and adequate means of livelihood.

3. (1) Every old person shall, on an application made in the prescribed form, be paid rupees five hundred per mensem as pension, by the appropriate Government.

Pension to old persons.

(2) The pension payable shall be subject to alteration on the basis of the prevailing cost-index as may be determined by the Central Government.

(3) The pension referred to in sub-section (1) shall be disbursed to old persons by the appropriate Government through Government Treasury or any branch of nationalised bank as may be prescribed by the Central Government.

4. The infirm from amongst the old persons shall be kept in "Old Persons Homes" to be set up in every district by the appropriate Government.

Facilities for infirm persons.

5. It shall be the responsibility of appropriate Government in their respective jurisdictions to provide to old persons—

Facilities to old persons.

(a) free medical aid in Government hospitals and other nearest dispensaries recognised by the Government; and

(b) residential accommodation free of cost.

6. (1) There shall be constituted by the Central Government a Fund to be known as the "Old Persons Welfare Fund" to carry out the purposes of this Act.

Constitution of Old persons.

(2) The Fund shall consist of the sums paid into it by the Central Government and grants and donations received from welfare agencies including international agencies.

Welfare Fund.

7. The expenses incurred on providing the old persons with pension and other rehabilitation facilities provided under this Act shall be met out of the Fund constituted under section 6.

Expenses to be met out of the Fund.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It is customary in our country for every Indian to look after his aged parents but now the economic conditions are such that it is not possible for the low income persons to support them. Today we find millions of old persons who are unable to take care of themselves or who do not have sufficient means or any support to lead a happy life. These people, who are without any source of income, live in hunger and are left uncared for. The majority of the aged are still left to fend for themselves. Our country being a welfare State, it should provide social security to such old and infirm persons.

This Bill seeks to give impetus to the new social order and seeks to provide pension, medical and residential facilities to old persons.

NEW DELHI;

April 19, 1993.

RAM NAIK,

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the payment of pension at the rate of rupees five hundred per month to such old persons who have attained the age of 60 years or more and who have no independent and adequate means of livelihood. Clause 4 provides that infirm persons from amongst the old persons shall be accommodated in old persons homes to be set up in every district. Clause 5 provides for medical aid and residential facilities free of cost to old persons. Clause 6 provides for the constitution of Old Persons Welfare Fund by the Central Government. This Bill, if enacted, would involve expenditure from the Consolidated Fund of India.

It cannot be estimated at this stage as to how many old persons will need assistance from the Central Government. However, an annual recurring expenditure of about rupees two hundred crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees ten lakhs will also be involved at the initial stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 67 OF 1993

A Bill to provide for the establishment of the State of Uttarakhand by reorganisation of the existing State of Uttar Pradesh and for matters connected therewith.

Be it enacted by Parliament in the Forty-fourth year of the Republic of India as follows:—

PART I**PRELIMINARY**

Short
title.

1. This Act may be called the State of Uttarakhand Act, 1993.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “appointed day” means the day which the Central Government may, by notification in the Official Gazette, appoint;

(b) “article” means the article of the Constitution;

(c) “assembly constituency”, “council constituency” and “parliamentary constituency” have the same meanings as in the Representation of People Act, 1950;

(d) “existing State of Uttar Pradesh” means the State of Uttar Pradesh as existing immediately before the appointed day;

(e) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;

(f) "notified order" means an order published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day is a member of that House;

(i) "State of Uttar Pradesh" means the State with the same name, comprising territories referred to in section 4;

(j) "successor State", in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttarakhand;

(k) "treasury" includes a sub-treasury; and

(l) any reference to a district, tahsil, or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the first day of 1992.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttarakhand comprising the following territories of the existing State of Uttar Pradesh, namely:—

"Almora, Nainital, Pauri Garhwal, Tehri, Dehra Dun, Uttar Kashi, Chamoli and Pithoragarh districts and the Kumbha Mela Area of Haridwar district."

Formation of the State of Uttarakhand.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those mentioned in section 3.

State of Uttar Pradesh and territorial divisions thereof.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. The States",—

(i) in entry 13, under the heading "Territories", the following shall be added at the end, namely:—

"and excluding the territories specified in section 3 of the State of Uttarakhand Act, 1993"; and

(ii) after the entry 25, the following entry shall be inserted, namely:—

"26. Uttarakhand; the territories specified in section 3 of the State of Uttarakhand Act, 1993".

Amendment of the First Schedule.

PART III

REPRESENTATION IN THE LEGISLATURES THE COUNCIL OF STATES

Amend-
ment of
the
Fourth
Schedule
to the
Constitu-
tion.

6. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(a) entries 15 to 27 shall be re-numbered as entries 16 to 28 respectively;

(b) after entry 14, the following entry shall be inserted, namely:—

“15. Uttarakhand.....3”;

(c) in entry 16 as so re-numbered, for the figures “34”, the figures “31” shall be substituted.

Allocation
of sitting
members.

7. (1) On and from the appointed day, the thirty-four sitting members of the Council of States representing the existing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Uttarakhand and Uttar Pradesh, as specified in the Fourth Schedule.

(2) The terms of office of such sitting members shall remain unaltered.

Filling
up or
vacan-
cies.

8. (1) As soon as may be after the appointed day, elections shall be held to fill the vacancies existing on the appointed day in the seats allotted to the State of Uttarakhand.

(2) The terms of office of such one of the two members so elected, as the Chairman of the Council of States may determine by drawing lot, shall expire on the 2nd day of April, 1994 and the term of office of the other member shall expire on the 2nd day of April, 1996.

THE HOUSE OF THE PEOPLE

Provision
as to
existing
House.

9. Nothing in Part II shall be deemed to affect the Constitution or duration of the existing House of the People or the extent of the constituency of any sitting member of that House.

THE LEGISLATIVE ASSEMBLIES

Provision
as to
Legislative
Assembly.

10. (1) The number of seats as on the appointed day in the Legislative Assembly of the State of Uttarakhand shall be seventy-five.

(2) In the Second Schedule to the Representation of People Act, 1950, under the heading I—States,

43 of 1950.

(i) entries 24 and 25 shall be renumbered as entries 25 and 26, respectively; and

(ii) before entry 25 as so re-numbered, the following entry shall be inserted, namely:—

“24. Uttarakhand.....75.....”

Allocation
of sitting
members.

11. (1) Every sitting member of the Legislative Assembly of Uttar Pradesh elected to fill a seat in the Assembly from a constituency which on the appointed day stands allotted, with or without alteration of boun-

daries to the State of Uttarakhand, shall, on and from that day, cease to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Uttarakhand.

(2) All other sitting members of the Legislative Assembly of Uttar Pradesh shall continue to be members of Legislative Assembly of the State.

(3) Notwithstanding anything contained in any other law for the time being in force, Legislative Assemblies of Uttarakhand and Uttar Pradesh shall be deemed to be duly constituted on the appointed day.

12. The period of five years referred to in clause (1) of article 172 shall, in the case of Legislative Assembly of Uttarakhand be deemed to have commenced on the date on which the Legislative Assembly of Uttar Pradesh actually commenced.

DELIMITATION OF CONSTITUENCIES

13. In the House of the People to be constituted after the commencement of this Act, there shall be allotted five seats to the State of Uttarakhand.

Duration of Legislative Assembly of the State of Uttarakhand.

Allocation of seats in the House of the People.

14. The total number of Seats in the Legislative Assembly of Uttarakhand to be constituted at any time after the appointed day, to be filled by persons chosen by direct elections from territorial constituencies shall be seventy-five of which ten seats will be reserved for Scheduled Castes and Scheduled Tribes.

Allocation of seats in the Legislative Assembly.

PART IV

HIGH COURT

15. (1) On and from the appointed day,—

(a) there shall be common High Court for the States of Uttar Pradesh and Uttarakhand, for the time being, to be called the High Court of Uttar Pradesh and Uttarakhand (hereinafter referred to as the Common High Court).

(b) The Judges of the High Court of Uttar Pradesh holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the Common High Court.

(2) The expenditure in respect of salaries and allowances of the Judges of the Common High Court shall be allocated amongst the States of Uttar Pradesh and Uttarakhand in such proportion as the President may, by order, determine.

Common High Court for Uttar Pradesh and Uttarakhand.

16. On and from the appointed day, the common High Court shall have, in respect of the territories comprised in the States of Uttar Pradesh and Uttarakhand, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Uttar Pradesh.

Jurisdiction of the Common High Court.

Practice
and
Proce-
dure in
Common
High
Court.

Custody
of
seal of
Common
High
Court.

Form of
writs
and
other
processes.

Powers of
Judges.

Principal
seat and
other
places of
sitting of
the
Common
High
Court.

Transfer
of
pending
proceed-
ings.

Distribu-
tion of
Revenues.

17. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the existing High Court shall, with the necessary modifications apply in relation to the Common High Court.

18. The law in force immediately before the appointed day with respect to the custody of the seal of the High Court of Uttar Pradesh shall, with the necessary modifications, apply with respect to the custody of the seal of the Common High Court.

19. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Uttar Pradesh shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the Common High Court.

20. The law in force immediately before the appointed day with respect to the powers of Chief Justice, single Judges and division courts of the High Court of Uttar Pradesh and with respect to all matters, ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the Common High Court.

21. (1) The principal seat of the Common High Court shall, unless otherwise determined by the President after consultation with the Chief Justice of that High Court and the Governors of Uttar Pradesh and Uttarakhand, be at the same place, at which the principal seat of the High Court of Uttar Pradesh is located immediately before the appointed day.

(2) The President, may after consultation with the Chief Justice of the Common High Court and the Governors of the States of Uttar Pradesh and Uttarakhand, by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more places within the territories to which the jurisdiction of the Common High Court extends, other than the principal seat of the High Court, and for any matters connected therewith.

(3) Notwithstanding anything contained in sub-section (2), the judges and division courts of the Common High Court may also sit at such other place or places in the States of Uttar Pradesh and Uttarakhand as the Chief Justice may, with the approval of the Governors of the States of Uttar Pradesh and Uttarakhand, appoint.

22. All proceedings pending in the High Court of Uttar Pradesh immediately before the appointed day shall, on that day, stand transferred to the Common High Court.

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

23. The President shall, by order, determine the grants-in-aid of the revenues of the State of Uttarakhand and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act,

9 of 1962.

1962 and the Constitution (Distribution of Revenues) Order, 1985 in such manner as he thinks fit.

24. The Governor of the existing State of Uttar Pradesh may at any time, before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for any period not exceeding beyond the 31st day of March, 1994, pending the sanction of such expenditure by the Legislative Assembly of the State of Uttarakhand:

Provided that the Governor of Uttarakhand may, after the appointed day, authorise such further expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for the said period pending such sanction.

Authorisa-
tion of
expendi-
ture of
the state
of Uttara-
khand.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

25. The provisions of this part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Applica-
tion of
part.

26. (1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

Land and
goods.

(a) if within that State, pass to the successor State in whose territories they are situated, or

(b) if outside that State, pass to the State of Uttar Pradesh;

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed between the successor States otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor states accordingly.

(2) The stores held for specific purposes, such as use of utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor State in whose territories such institutions, workshops, undertakings of works are located.

(3) The stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years ending with the 31st day of March, 1994 the territories of the existing State of Uttar Pradesh included respectively in each of the successor States;

(5) In this section the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

Treasury
and bank
balances.

27. The total of the cash balances in all treasuries of the existing State of Uttar Pradesh and the credit balances of that State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the successor States according to the population ratio:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be affected by adjusting the credit balances of the successor States in the books of the Reserve Bank of India on the appointed day:

Provided further that if any successor State has no account with the Reserve Bank of India, the adjustment shall be made in such a manner as the Central Government may, by order, direct.

Arrears
of
taxes.

28. The right to recover arrears of any tax or duty on property, including arrears of land revenue shall belong to the successor State in whose territories the place of assessment of that tax or duty is included.

PART VII

PROVISIONS AS TO SERVICES

Provisions
relating
to
All-India
services.

29. (1) In this Section, the expression "State Cadre"—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(2) In place of cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Uttar Pradesh, these shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttarakhand, in respect of each of these services.

(3) The initial strength and the composition of each of the State cadres for the States of Uttar Pradesh and Uttarakhand shall be such as the Central Government may, by order, determine before the appointed day.

((4) The members of each of the said services borne on the State cadre for the existing State of Uttar Pradesh immediately before the appointed day shall be allotted to the State cadres of the same service for each of the States of Uttar Pradesh and Uttarakhand in such manner and with effect from such date or dates as the Central Government may, by order, specify.

(5) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All India Services Act, 1951, or the rules made thereunder in relation to the State cadres of the said services referred to in sub-section (3) and in relation to the members of these services borne on the said cadres.

30. (1) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any other successor State.

Provi-
sions
relating
to other
services.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in Sub-Section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein, be made available for serving the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

(4) The Central Government may, by order, establish one or more advisory committees for the purpose of assisting it in regard to—

(a) the division and integration of the services among the successor States; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(5) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 28 apply.

(6) Nothing in this section shall be deemed to effect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the Union or any State;

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

31. For the purpose of facilitating the application in relation to the State of Uttar Pradesh or the State of Uttarakhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Power to
adapt
Laws.

Explanation.—In this section, the expression “appropriate Government” means—

- (a) in respect of any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and
- (b) in respect of any other law, in its application to a State, the State Government.

Power to construe laws.

32. (1) Notwithstanding that no provision or insufficient provision has been made under section 30 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Uttar Pradesh or the State of Uttarakhand construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

(2) Any reference to the High Court of Uttar Pradesh in any law shall, unless the context otherwise requires, be construed, in and from the appointed day, as a reference to the High Court of Uttar Pradesh and Uttarakhand.

Power to name authorities etc. for exercising statutory functions.

33. The Central Government, in respect of the Government of the State of Uttarakhand as regards the territories thereof may, by notification in the Official Gazette, specify the authority, officer or person who, on and from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

34. Where immediately before the appointed day, the existing State of Uttar Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment under this Act shall be deemed to be substituted for the existing State of Uttar Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of pending proceedings.

35. (1) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal, authority or officer in any area which on that day falls within a successor State shall, if it is a proceeding relating exclusively to the territories which as from that day are the territories of another successor State stand transferred to the corresponding court, tribunal, authority or officer in that other state, as the case may be.

(2) If any question arises as to whether any proceedings should stand transferred under sub-section (1), it shall be referred to the High Court, having jurisdiction in respect of the area in which the court, tribunal, authority or officer before which or whom such proceedings are pending on the appointed day, is functioning and the decision of the High Court shall be final.

(3) In this section—

- (a) “proceeding” includes any suit, case or appeal, and
- (b) “corresponding court, tribunal, authority or officer” in a State means—

(i) the court, tribunal, authority or officer in that state in which or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority or officer in that State, as may be determined after the appointed day by the Government of the existing State of Uttar Pradesh, to be the corresponding court, tribunal, authority or officer.

36. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The people of Uttarakhand (eight hill districts of Uttar Pradesh and Kumbha Mela area of Haridwar district) have made significant contribution in the freedom struggle of India.

The specific social and economic problems of the people of this region require special treatment in democratic and independent India.

The problems of the people of this region have been accumulating and the people continue to suffer.

The changes in the administrative set up under the Constitution were found necessary for the sustained growth and development of the people of Himachal Pradesh and Arunachal Pradesh besides other areas in North-Eastern India.

The Uttar Pradesh State Assembly also felt persuaded to adopt a resolution to carve out a separate State of Uttarakhand to end the neglect of the people of this region.

The formation of a separate hill State of Uttarakhand is essential to ensure a balanced development of this region in all its dimensions so that the rich intellectual potential of the people of this region and even richer material resources available with unique advantage of environment, are duly exploited by an appropriate democratic set-up to unleash the creative energies of the people of Uttarakhand. It is, therefore, proposed to provide for the establishment of the State of Uttarakhand with its legislature, executive and the judiciary like other Indian States, in accordance with the Constitution of India.

Hence this Bill.

NEW DELHI;
October 30, 1992

INDRAJIT GUPTA

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 16017/4/92-SR, dated 20 April, 1993 from Shri S. B. Chavan, Minister of Home Affairs to the Secretary-General Lok Sabha.]

The President, having been informed of the subject matter of the State of Uttarakhand Bill, 1993 proposed by Shri Indrajit Gupta, M.P., has accorded his recommendation under articles 3, 117(1) and 274(1) of the Constitution for introduction of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

As a State, Uttarakhand will be entitled to a share in the income tax and additional excise duty of the Central Government. There will be some revenue receipts from the areas now covered under the new State of Uttarakhand. However, there may be a gap between the revenue receipts and expenditure. The Central Government will have to provide such quantum of grants-in-aid to the new State as may be necessary by suitably amending the provisions of the Constitution (Distribution of Revenue) Order, 1985, in exercise of the powers given by clause 23 of the Bill. No exact estimate can be given about the amount likely to be given to the State as grants-in-aid but it is estimated that it may involve expenditure to the tune of rupees two hundred crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the President to determine by order the grant-in-aid to the new State and its share of Central taxes and amend for that purpose the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution of Revenues) Order, 1985.

Clause 36 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill. The rules, if any will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

The rules to be made will relate matters of details only and as such the delegation of legislative power is of a normal character.

BILL NO. 68 OF 1993***A Bill to provide for the welfare of unorganized artists.***

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Unorganised Artists Welfare Act, 1993.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means the Central Government or the State Government, as the case may be;

(b) "prescribed" means prescribed by rules made under this Act; and

(c) "unorganised artist" means any person who practises any of the arts of dance, drama, music, singing, painting, sculpture or such other forms of art, as may be prescribed, and who is not a member of any union or association, which is working for the welfare of artists, registered or recognised by or under any law, for the time being in force, or by the Central Government or a State Government.

3. The Central Government shall establish, in every district of the country, an Authority, to be known as the Unorganised Artists Welfare Authority.

Establishment of Unorganised Artists Welfare Authority.

4. It shall be the duty of every Authority—

- (i) to register all unorganised artists residing in its respective jurisdiction; and
- (ii) to work out plans and formulate schemes for the welfare of unorganised artists.

5. (1) There shall be established a fund in every State and Union territory to be known as the Unorganised Artists Welfare Fund by the appropriate Government.

(2) The Central Government and the State Government shall contribute to the Fund in such ratio as may be prescribed.

Establishment of Unorganised Artists Welfare Fund.

6. The Fund established under section 5 shall be utilised for:—

- (i) giving monthly pension at such rate, as may be prescribed, to the unorganised artists;
- (ii) imparting free education to the unorganised artists;
- (iii) providing free medical facilities to the unorganised artists;
- (iv) providing proper housing facilities to the unorganised artists;
- (v) providing insurance cover to the unorganised artists; and
- (vi) such other material assistance to the unorganised artists, as may be prescribed.

Utilisation of Fund.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

A large number of artists in our country are unorganised and there is an urgent need to improve their standard of living. The facilities being provided by the Government of India to these artists are neither adequate nor satisfactory. As far as welfare of these artists is concerned, there is no law providing for adequate medical, educational, housing and other facilities to such artists and their children.

The Bill therefore, seeks to supplement the efforts being made by the Government to improve the living conditions of the unorganised artists.

NEW DELHI;
April 20, 1993.

GIRIJA DEVI.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish in every district of the country an Authority to be known as the Unorganised Artists Welfare Authority. Clause 5 provides for the establishment of an Unorganised Artists Welfare Fund in every State and Union territory by the appropriate Government, to which the Central Government and the State Governments shall contribute in such ratio, as may be prescribed. As far as the implementation of the provisions of the Bill in the States is concerned, the expenditure shall be borne by the respective States. The Central Government shall have to incur some expenditure in respect of the Union territories and may also have to give grants-in-aid to the State Governments for carrying out the provisions of the Bill.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crore per annum.

It is also likely to involve a non-recurring expenditure of about rupees twenty lakh.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

Bill No. 64 of 1993

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title

1. This Act may be called the Constitution (Amendment) Act, 1993.

Amendment of article 94.

2. In article 94 of the Constitution, in the second proviso, for the words "the Speaker shall not vacate his office", the words "the Speaker and the Deputy Speaker shall not vacate their respective offices", shall be substituted.

Amendment of article 179.

3. In article 179 of the Constitution, in the second proviso, for the words "the Speaker shall not vacate his office", the words "the Speaker and the Deputy Speaker shall not vacate their respective offices", shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Speaker and the Deputy Speaker of the House of the People or of the Legislative Assembly of a State occupy positions of high prestige in our democratic set up. The Constitution provides for the continuance in office of the Speaker of the House of the People even when the House is dissolved and for the continuance in office of the Speaker of the Legislative Assembly, in case that House is dissolved. There is no provision for the continuance in office of the Deputy Speaker, when the House is dissolved at a time when the office of the Speaker is lying vacant for any reason. There is also no provision for coping with the situation when vacancy is caused in the office of the Speaker due to any reason, after the House (House of the People/ Legislative Assembly) stands dissolved. To tide over this contingency, it is essential that the Deputy Speaker should also continue to be in office along-with the Speaker, until immediately before the first meeting of the House of the People or the Legislative Assembly after the dissolution.

Hence this Bill.

New Delhi;
April 19, 1993,

ANNA JOSHI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the continuance in office by the Deputy Speaker of the House of the People when the House stands dissolved until immediately before the first meeting of the House of the People after the dissolution. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India on account of salary and allowances payable to the Deputy Speaker during this period. It is likely to involve a recurring expenditure of about rupees seven thousand per month which may extend to a minimum period of six months in view of provisions of article 85(1) of the Constitution, every time the House of the People is dissolved. Under article 112(3)(b) the increase in the amount of such expenditure shall be charged on the Consolidated Fund of India. As regards the expenditure of Deputy Speakers in States is concerned, it will be met out of the Consolidated Funds of the respective States.

No non-recurring expenditure is likely to be involved.

BILL NO. 62 OF 1993

A Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Ghaziabad.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. This Act may be called the High Court at Allahabad (Establishment of a permanent Bench at Ghaziabad) Act, 1993.

Short title.

2. There shall be established a permanent Bench of the High Court at Allahabad at Ghaziabad and such Judges of the High Court at Allahabad being not less than seven in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Ghaziabad in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Ghaziabad, Meerut, Bijnore, Haridwar, Dehradun and Muzaffarnagar.

Establishment of a permanent Bench of High Court at Allahabad at Ghaziabad.

STATEMENT OF OBJECTS AND REASONS

The people living in Ghaziabad and surrounding districts have been demanding establishment of a permanent Bench of the High Court at Allahabad at Ghaziabad for a long time. A large number of cases have been pending for years in Allahabad High Court. The people of these districts have to go to Allahabad in connection with their cases resulting in loss of their time and money. It is, therefore, imperative that a permanent Bench of the High Court at Allahabad be established at Ghaziabad in the interest of administration of speedy and cheap justice and for the convenience of the litigant public living in the districts of Ghaziabad, Meerut, Bijnore, Haridwar, Dehradun and Muzaffarnagar.

Hence this Bill.

NEW DELHI;
April 13, 1993.

RAMESH CHAND TOMAR

BILL NO. 61 OF 1993

A Bill further to amend the Hindu Marriage Act, 1955.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Hindu Marriage (Amendment) Act, 1993. Short title.

2. In section 13 of the Hindu Marriage Act, 1955, in sub-section (1), clause (iv) shall be omitted. Amendment of section 13.

STATEMENT OF OBJECTS AND REASONS

Section 13 of the Hindu Marriage Act, 1955, provides that a marriage can be dissolved by a decree of divorce on the ground that one of the party is suffering from a virulent and incurable form of leprosy. By the latest research, scientists have proved that nothing is impossible in this world and modern science can cure leprosy patients. The leprosy patients can not only be cured but can also be freed from the ugly stigma of deformation. The provision in section 13, however, is a clog in the improvement of lot of leprosy victims as it negates all attempts being made to eradicate leprosy.

The Bill, therefore, seeks to delete the provision which provides for the dissolution of marriage on the ground that one of the party to the marriage is suffering from a virulent and incurable form of leprosy.

NEW DELHI;

RAMESH CHAND TOMAR

April 19, 1993.

—
C. K. JAIN,
Secretary-General.